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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,697	03/10/2004	Hisayoshi Mizuhara	114208-021	4318
43793	7590	03/10/2006		
EVEREST INTELLECTUAL PROPERTY LAW GROUP P. O. BOX 708 NORTHBROOK, IL 60065			EXAMINER BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	
DATE MAILED: 03/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/797,697	<b>Applicant(s)</b> MIZUHARA ET AL.	
	<b>Examiner</b> James R. Brittain	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09122005</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 988659 in view of Schwendt (US 3922761).

GB 988659 (figures 2, 7, 9) teaches slide fastener structure with fastener elements 8 secured to tapes 1 including a bottom end stop made of synthetic resin (page 1, lines 41-53) including reinforcements in the form of ribs 4 that are either truncated pyramids or rounded in cross-section. The difference is that the ribs are not spaced by a gap wider than the base of a rib, the ribs do not have front ends connected by a rib to form a frame and the dimensions are unstated. However, Schwendt (figures 1-3) teaches reinforced bottom end stop structure with the ribs 11 including ribs 11a extending from the separable bottom end stop toward an outside edge of the fastener tape spaced by a gap wider than the base of a rib and wherein front ends of the ribs 11a are joined by a rib 11b, 11c to form a frame through which fabric is exposed (col. 6, lines 2-11). As it would be advantageous to have an attractive bottom stop that provides sufficient reinforcement without utilizing more material than necessary, it would have been obvious to spread out the ribs of GB 988659 as taught by Schwendt so as to save material and provide an attractive bottom stop by exposing the fabric while still strengthening the bottom stop and as to the dimensions, the scaling of the ribs to provide a particular degree of reinforcement is a

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function of the material of the ribs and the size of the ribs and it would have been obvious to one having ordinary skill in the art to scale the ribs to provide adequate strength for a particular application and this renders obvious applicant's particular claimed range. Similarly, with respect to the ranges of claims 3-6, applicant is simply choosing to modify the teachings of GB 988659 by obvious scaling of the fundamental reinforcing ribs taught by GB 988659.

*Response to Arguments*

Applicant's arguments filed September 12, 2005 have been fully considered but they are not persuasive.

GB 988659 clearly shows that it is desirable to have the ribs in a parallel configuration and formed as tapered elements. The ribs are spaced and ribs on opposite surfaces overlie each other thereby permitting a needle to be inserted therebetween if so desired. While the placement of stitches between the ribs is not disclosed by GB 988659, applicant's claims do not require the stitches between the ribs either nor does applicant show any stitches in his own drawings. Further, Schwendt (US 3922761) indicates that the larger gaps have an aesthetic advantage by indicating "The ribs define windows 11f through which the fabric is exposed" (col. 6, lines 9-10). While this is a different reason for changing increasing the gap so as to be greater than the base of the ribs than that of applicant, it is still sufficient to suggest modifying the structure of GB 988659. The fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Applicant has chosen a claim construction that only states that "the ribs are formed at a sewing position to a sewing object" (claim 1, line 12) and nowhere is it required that

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stitches extend between the ribs. The device of GB 988659 can inherently have the stitches extend between ribs or even penetrate a rib and still clearly be “formed at a sewing position to a sewing object”. Applicant has chosen a claim construction that certainly doesn’t require any stitching between the ribs, but the device of GB 988659 can certainly have stitching in the gap between the ribs. Applicant argues that the dimension of the ribs is such that too small a rib reduces the contact area of the rib with the tape and the attachment strength of the rib with the tape is reduced. This not an unobvious result. Clearly both GB 988659 and Schwendt (US 3922761) are teaching usable devices with the ribs functioning to reinforce the ends of the tape and would be dimensioned by one having ordinary skill in the art appropriately to stick to the tape and remain attached thereto as shown in the figures of these references. Applicant also argues that the width and height of the rib is such that the needle in the sewing process would damage the rib or be damaged itself. This may be of some pertinence with a particular method of attaching the tape wherein the needle mount is rigidly fixed, but is of no pertinence with the article claims because as indicated above the stitching is not claimed in combination and the rib or needle would not be damaged by a needle secured in a machine by a mount that would slightly slide upon contact with an object, such as a rib that is harder than fabric. Therefore, as to the dimensions, the scaling of the ribs to provide a particular degree of reinforcement is a function of the material of the ribs and the size of the ribs and it would have been obvious to one having ordinary skill in the art to scale the ribs to provide adequate strength for a particular application and this renders obvious applicant’s particular claimed range.

### *Conclusion*

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

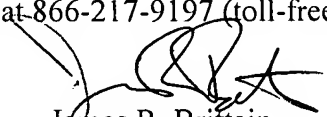
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB